



July 20, 1999

Mr. Lynn Ellison  
District Attorney  
81<sup>st</sup> Judicial District  
Atascosa County Courthouse  
Circle Drive, No. 21  
Jourdanton, Texas 78026

OR99-2028

Dear Mr. Ellison:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 127706.

The Karnes County District Attorney's Office received a request for information relating to a shooting death. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Included in the information submitted to this office is an autopsy report. Section 11, article 49.25 of the Code of Criminal Procedure provides as follows:

The medical examiner shall keep full and complete records properly indexed, giving the name if known of every person whose death is investigated, the place where the body was found, the date, the cause and manner of death, and shall issue a death certificate. The full report and detailed findings of the autopsy, if any, shall promptly be delivered to the proper district, county, or criminal district attorney in any case where further investigation is advisable. Such records shall be public records.

Code Crim. Proc. art. 49.25, § 11. The Bexar County Medical Examiner performed an autopsy on the individual who died in the shooting that is the subject of this request. Pursuant to section 11, the autopsy report is a public record and must be released to the requestor.

With respect to the remainder of the documents, section 552.108 of the Government Code provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

\* \* \*

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

\* \* \*

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108.

A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You have stated and submitted an exhibit that indicates that no charges were brought against any individual in this case. Because the documents at issue deal with the detection, investigation, or prosecution of crime which concluded in a final result other than a conviction or deferred adjudication, you may withhold this information, excepting the autopsy report, under section 552.108(a)(2) of the Government Code.

In addition, we note that information normally found on the front page of an offense report is generally considered public. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. Gov't Code § 552.108(c); *see* Open Records Decision No. 127 (1976) (summarizing the types of information deemed public by *Houston Chronicle*).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts

presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Sue M. Lee", with a long horizontal flourish extending to the right.

Sue M. Lee  
Assistant Attorney General  
Open Records Division

SML\nc

Ref: ID# 127706

Encl: Submitted documents

cc: Mr. Richard Sparr, Jr.  
Sparr & Associates, Inc.  
105 South St. Mary's Street, Suite 650  
San Antonio, Texas 78205  
(w/o enclosures)